

**Remarks**

This is a Response to the Official Action dated March 10, 2004.

**Claim amendments**

This response amends Claims 1-7. The amended claims are used to broaden the scope of the invention and are **not** offered in response to the Examiner's rejections.

This response adds new Claims 8-14. The new claims are used to broaden the scope of the invention and are **not** offered in response to the Examiner's rejections. The support for the new claims can be found in originally submitted Claims 1-7.

**Drawings objection**

Replacement sheet for Figure 2 is enclosed. Figure 2, as amended, depicts a connection between web server 4 and database 5, and connection between database 5 and management server 6 as requested by the Examiner.

**Specification objection**

Replacement Abstract is provided. Abstract, as amended, no longer exceeds 150 words as requested by the Examiner.

The paragraph at page 8, line 21, to page 9, line 6, as amended, refers to Figure 7 as requested by the Examiner.

**35 U.S.C. §102(e) Rejection**

Claims 1-6 were rejected under 35 U.S.C. §102(e) as being anticipated by Leeke (U.S. Patent No. 6,587,127). Claim 7 was rejected under 35 U.S.C. §103(a) as being unpatentable over Leeke.

**Claim 1**

A. The Applicant submits that the Examiner has not shown that Leeke discloses, suggests or teaches, *inter alia*, at least the following features recited by Claim 1, as amended, of the present application:

“... a database **in which data of pieces of music** that can be requested **are stored** is connected to said web server ...” (emphasis added)

The Examiner asserts that “a database” as claimed in Claim 1 is disclosed by Leeke’s “database 148.” See page 3, section 6 of the Official Action.

The Applicant respectfully traverses the Examiner’s assertion. According to Leeke, “database 148” is used to manage and monitor the operation of the system. See column 5, lines 51-53 of Leeke. “Database 148” as disclosed in Leeke includes global parameters such as listening time threshold parameter, user permission parameters, and parameters for system level performance reports. See column 5, lines 55-61 of Leeke. Leeke does not teach “database 148” as also including “data of pieces of music” as claimed in Claim 1.

The Applicant submits that the Examiner has not shown that Leeke teaches, discloses or suggests “a database in which data of pieces of music that can be requested are stored” as claimed in Claim 1. Hence, Claim 1 is patentable over Leeke and should be allowed by the Examiner. Claims 2-7, at least based on their dependency on Claim 1, are also believed to be patentable over Leeke.

B. The Applicant further submits that the Examiner has not shown that Leeke discloses, suggests or teaches, *inter alia*, at least the following features recited by Claim 1, as amended, of the present application:

“...pieces of music selected with a click or automatically at said one or more computers for staff are broadcast by said broadcasting system.”

The Examiner asserts that “computers for staff” as claimed in Claim 1, as amended, is disclosed by Leek’s “music testing component 152”, “promotions component 156” and “listener feedback component 162.” See page 4, line 1 of the Official Action.

The Applicant respectfully traverses the Examiner’s assertion. To start, “music testing component 152”, “promotions component 156” and “listener feedback component 162” are components located within a “storage device 116” of single “computer 110” as disclosed by Leeke. See Figure 1 of Leeke. It is not clear how components of a “storage device 116” without a “processor 112” can be considered by the Examiner as reading on “computers for staff” as claimed in Claim 1, as amended.

Further, according to Leeke the “music testing component 152 provides a **user interface** ... for a music testing service ... [to] allow record labels ... to test new music releases,” (emphases added). See column 6, lines 57-62 of Leeke. Since “music testing component 152” provides an interface to the user for music testing, how can it read on “pieces of music selected with a click or automatically at said one or more computers for staff” as claimed in Claim 1.

Additionally, according to Leeke, the “promotions component 156 tracks the performance of promotions offered to elicit responses using the music testing component 152.” See column 7, lines 5-10 of Leeke. Since “promotions component 156” deals with promotions and does not deal with music, the Applicant submits that “promotions component 156” does not read on “pieces of music selected with a click or automatically at said one or more computers for staff” as claimed in Claim 1.

Also, according to Leeke the “listener feedback component 162 receives and manages feedback messages [entered by end users through player 142].” See column 7, lines 17-22 of Leeke. Since “listener feedback component 162” deals

with feedback messages and does not deal with music, the Applicant submits that “listener feedback component 162” does not read on “pieces of music selected with a click or automatically at said one or more computers for staff” as claimed in Claim 1.

The Applicant submits that the Examiner has not shown that Leeke teaches, discloses or suggests “pieces of music selected with a click or automatically at said one or more computers for staff are broadcast by said broadcasting system” as claimed in Claim 1. Hence, Claim 1 is patentable over Leeke and should be allowed by the Examiner. Claims 2-7, at least based on their dependency on Claim 1, are also believed to be patentable over Leeke.

#### **Patentability of New Claim 8**

New Claim 8 recites in part “storing data of pieces of music that can be requested in a database; connecting said database to said web server; ... connecting one or more computers for staff with said database through said management server; ... selecting pieces of music with a click or automatically at said one or more computers for staff for broadcast by said broadcasting system.” The Applicant submits that at least these features are not disclosed by the prior art cited by the Examiner. Support for the new Claim 8 can be found in the originally submitted Claim 1.

Claims 9-14, at least based on their dependency on Claim 8, are also believed to be patentable over Leeke.

**Conclusion**

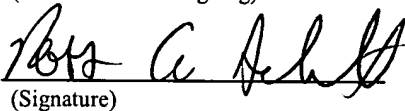
In view of the above, reconsideration and allowance of the pending claims are respectfully solicited.

The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 12-0415. In particular, if this response is not timely filed, then the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136 (a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 12-0415.

I hereby certify that this correspondence is being deposited with the United States Post Office with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents POB 1450, Alexandria, VA 22313-1450 on

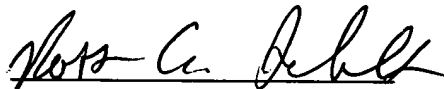
June 9, 2004  
(Date of Deposit)

Ross A. Schmitt  
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Respectfully submitted,



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